

House File 892 - Introduced

HOUSE FILE 892

BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 872)

(SUCCESSOR TO HF 814)

(SUCCESSOR TO HSB 252)

A BILL FOR

1 An Act relating to the redemption of beverage containers,
2 providing civil penalties, making appropriations, and
3 including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 455C.1, subsections 1, 6, and 13, Code
2 2021, are amended to read as follows:

3 1. "*Beverage*" means wine as defined in section 123.3,
4 subsection 54, alcoholic liquor as defined in section 123.3,
5 subsection 5, beer as defined in section 123.3, subsection
6 7, high alcoholic content beer as defined in section 123.3,
7 subsection 22, canned cocktail as defined in section 123.3,
8 subsection 11, mineral water, soda water, and similar
9 carbonated soft drinks in liquid form and intended for human
10 consumption.

11 6. "*Dealer agent*" means a person who solicits or picks up
12 empty beverage containers ~~from a dealer~~ for the purpose of
13 returning the empty beverage containers to a distributor or
14 manufacturer.

15 13. "*Redemption center*" means a facility at which consumers
16 may return empty beverage containers and receive payment for
17 the refund value of the empty beverage containers. "*Redemption*
18 *center*" includes a participating dealer registered pursuant to
19 section 455C.6A.

20 Sec. 2. Section 455C.1, Code 2021, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 12A. "*Participating dealer*" means a dealer,
23 whether registered or unregistered, who accepts the return of
24 empty beverage containers from a consumer.

25 Sec. 3. Section 455C.2, Code 2021, is amended to read as
26 follows:

27 **455C.2 Refund values.**

28 1. A refund value of not less than five cents shall be paid
29 by the consumer on each beverage container sold in this state
30 by a dealer for consumption off the premises. Upon return of
31 the empty beverage container upon which a refund value has
32 been paid to ~~the~~ a participating dealer or person operating
33 a redemption center and acceptance of the empty beverage
34 container by the participating dealer or person operating a
35 redemption center, the participating dealer or person operating

1 a redemption center shall immediately return the amount of
 2 the refund value to the consumer. Upon return of the empty
 3 beverage container on which a refund value has been paid to a
 4 dealer agent, the dealer agent shall return the amount of the
 5 refund value to the consumer within a reasonable time not to
 6 exceed fourteen days.

7 2. a. In addition to the refund value provided in
 8 subsection 1 of ~~this section~~, a participating dealer, or person
 9 operating a redemption center, who redeems empty beverage
 10 containers or a dealer agent shall be reimbursed by the
 11 distributor required to accept the empty beverage containers an
 12 amount which that is one-cent two cents per beverage container
 13 for beverage containers accepted between the effective date
 14 of this Act and December 31, 2026, and one cent per beverage
 15 container for beverage containers accepted on or after January
 16 1, 2027. A participating dealer, dealer agent, or person
 17 operating a redemption center may compact empty metal beverage
 18 containers with the approval of the distributor required to
 19 accept the containers.

20 b. When a distributor delivers beverage containers to
 21 a dealer, the dealer shall pay to the distributor as a
 22 contribution to the reimbursement required under paragraph "a"
 23 one-half of one cent per beverage container for sixty percent
 24 of the beverage containers delivered. This paragraph is
 25 repealed January 1, 2027.

26 Sec. 4. Section 455C.3, subsections 1, 2, and 4, Code 2021,
 27 are amended to read as follows:

28 1. A participating dealer shall not refuse to accept from a
 29 consumer any empty beverage container of the kind, size, and
 30 brand sold by the participating dealer, or refuse to pay to the
 31 consumer the refund value of a beverage container as provided
 32 under section 455C.2.

33 2. A distributor shall accept and pick up from a
 34 participating dealer served by the distributor or a redemption
 35 center for a dealer served by the distributor at least weekly,

1 or when the distributor delivers the beverage product if
 2 deliveries are less frequent than weekly, any empty beverage
 3 container of the kind, size, and brand sold by the distributor,
 4 and shall pay to the participating dealer or ~~person operating~~
 5 a redemption center the refund value of a beverage container
 6 and the reimbursement as provided under [section 455C.2](#) within
 7 one week following pickup of the containers or when the
 8 participating dealer or redemption center normally pays the
 9 distributor for the deposit on beverage products purchased from
 10 the distributor if less frequent than weekly. A distributor
 11 or employee or agent of a distributor is not in violation
 12 of [this subsection](#) if a redemption center is closed when the
 13 distributor attempts to make a regular delivery or a regular
 14 pickup of empty beverage containers. [This subsection](#) does
 15 not apply to a distributor selling alcoholic liquor to the
 16 alcoholic beverages division of the department of commerce.

17 4. A distributor shall accept from a dealer agent any
 18 empty beverage container of the kind, size, and brand sold by
 19 the distributor and ~~which~~ that was picked up by the dealer
 20 agent ~~from a dealer~~ within the geographic territory served
 21 by the distributor and the distributor shall pay the dealer
 22 agent the refund value of the empty beverage container and the
 23 reimbursement as provided in [section 455C.2](#).

24 Sec. 5. Section 455C.4, Code 2021, is amended to read as
 25 follows:

26 **455C.4 Refusal to accept containers.**

27 1. Except as provided in [section 455C.5, subsection 3](#),
 28 a participating dealer, a ~~person operating~~ dealer agent, a
 29 redemption center, a distributor, or a manufacturer may refuse
 30 to accept any empty beverage container ~~which~~ that does not have
 31 stated on it a refund value as provided under [section 455C.2](#).

32 2. a. A dealer may refuse to accept and to pay the
 33 refund value of any empty beverage container if the ~~place of~~
 34 ~~business of the dealer and the kind and brand of empty beverage~~
 35 ~~containers are included in an order of the department approving~~

1 ~~a redemption center under section 455C.6.~~ dealer's place of
 2 business is in a county with a population of more than thirty
 3 thousand and within ten miles of a registered redemption center
 4 or if the dealer's place of business is in a county with a
 5 population of thirty thousand or fewer and within fifteen miles
 6 of a registered redemption center.

7 b. A dealer who refuses to accept empty beverage containers
 8 under paragraph "a" shall prominently post on the premises
 9 of the dealer's place of business a sign that includes the
 10 location and hours of a registered redemption center that
 11 qualifies for purposes of paragraph "a".

12 ~~3. A dealer or a distributor may refuse to accept and to pay~~
 13 ~~the refund value of an empty wine or alcoholic liquor container~~
 14 ~~which is marked to indicate that it was sold by a state liquor~~
 15 ~~store. The alcoholic beverages division shall not reimburse~~
 16 ~~a dealer or a distributor the refund value on an empty wine or~~
 17 ~~alcoholic liquor container which is marked to indicate that the~~
 18 ~~container was sold by a state liquor store.~~

19 ~~4.~~ 3. A class "E" liquor control licensee may refuse to
 20 accept and to pay the refund value on an empty alcoholic liquor
 21 container from a participating dealer or a redemption center
 22 or from a person acting on behalf of or who has received empty
 23 alcoholic liquor containers ~~from a dealer~~ or a redemption
 24 center.

25 ~~5.~~ 4. A manufacturer or distributor may refuse to accept
 26 and to pay the refund value and reimbursement as provided in
 27 section 455C.2 on any empty beverage container that was picked
 28 up by a dealer agent ~~from a dealer~~ outside the geographic
 29 territory served by the manufacturer or distributor.

30 Sec. 6. Section 455C.5, subsection 1, Code 2021, is amended
 31 to read as follows:

32 1. Each beverage container sold or offered for sale in
 33 this state by a dealer shall clearly indicate the refund value
 34 of the container by embossing or by a stamp, label, or other
 35 method securely affixed to the container, ~~the refund value of~~

1 ~~the container.~~ The department shall specify, by rule, the
2 minimum size of the refund value indication on the beverage
3 containers.

4 Sec. 7. Section 455C.6, subsections 1, 2, and 5, Code 2021,
5 are amended to read as follows:

6 1. To facilitate the return of empty beverage containers
7 and to serve dealers of beverages, any person may establish a
8 redemption center, ~~subject to the approval of the department,~~
9 at which consumers may return empty beverage containers
10 and receive payment of the refund value of such beverage
11 containers.

12 2. a. An application for approval of Written notice of
13 the operation of a redemption center shall be filed with the
14 department. The application notice shall state the name and
15 address of the person responsible for the establishment and
16 operation of the redemption center, the kind and brand names
17 of the beverage containers which will be accepted at the
18 redemption center, and the names and addresses of the dealers
19 to be served by the redemption center. The application shall
20 contain such other information as the director may reasonably
21 require include the information listed in paragraph "b".
22 Upon filing a proper notice, the redemption center shall be
23 considered registered for purposes of this chapter.

24 b. A redemption center's notice filed under paragraph "a"
25 shall be considered proper if it includes all of the following:

26 (1) The name, address, and telephone number of the
27 redemption center.

28 (2) The name, address, and telephone number of the person or
29 persons responsible for the establishment and operation of the
30 redemption center.

31 (3) An indication that the redemption center will accept
32 all kinds, sizes, and brands of beverage containers sold by the
33 dealers served by the redemption center.

34 (4) The names and addresses of the distributors whose
35 beverage containers will be redeemed.

1 (5) The hours during which the redemption center will be
2 open.

3 (6) An indication that the redemption center will be in
4 operation and open to the public for the redemption of beverage
5 containers at least twenty hours per week, four hours of which
6 shall be between the hours of 6:00 p.m. and 10:00 p.m. or on
7 Saturday or Sunday, or a combination thereof.

8 (7) A statement of whether metal, glass, or plastic beverage
9 containers will be crushed or broken and, if so, the written
10 consent of the distributor or manufacturer authorizing the
11 crushing or breaking.

12 5. All ~~approved~~ redemption centers shall meet applicable
13 health standards.

14 Sec. 8. Section 455C.6, subsections 3 and 4, Code 2021, are
15 amended by striking the subsections.

16 Sec. 9. **NEW SECTION. 455C.6A Participating dealer acting as**
17 **registered redemption center.**

18 A participating dealer may register with the department to
19 act as a registered redemption center for purposes of this
20 chapter.

21 Sec. 10. Section 455C.12, subsections 2 and 3, Code 2021,
22 are amended to read as follows:

23 2. A distributor who collects or attempts to collect
24 a refund value on an empty beverage container when the
25 distributor has paid the refund value on the container to a
26 participating dealer, dealer agent, redemption center, or
27 consumer is guilty of a fraudulent practice.

28 3. Any person who does any of the following acts is guilty
29 of a fraudulent practice:

30 a. Collects or attempts to collect the refund value on the
31 container a second time, with the knowledge that the refund
32 value has once been paid by the distributor to a participating
33 dealer, dealer agent, redemption center, or consumer.

34 b. Manufactures, sells, possesses, or applies a false or
35 counterfeit label or indication ~~which~~ that shows or purports to

1 show a refund value for a beverage container, with intent to
2 use the false or counterfeit label or indication.

3 c. Collects or attempts to collect a refund value on
4 a container with the use of a false or counterfeit label
5 or indication showing a refund value, knowing the label or
6 indication to be false or counterfeit.

7 Sec. 11. Section 455C.12, Code 2021, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 6. A person who violates any provision of
10 this chapter, or any rule, permit, or order adopted or issued
11 under this chapter, shall be subject to a civil penalty not
12 to exceed two thousand five hundred dollars for each day of
13 the violation. The department shall adopt rules establishing
14 a schedule of civil penalties based on the severity of the
15 violation. Any civil penalty collected under this chapter
16 shall be deposited in the bottle bill fund established in
17 section 455C.12D.

18 Sec. 12. NEW SECTION. **455C.12A Administrative enforcement**
19 **— compliance orders.**

20 1. The director may issue any order necessary to secure
21 compliance with or prevent a violation of the provisions of
22 this chapter or any rule adopted or permit or order issued
23 pursuant to this chapter. Any order issued pursuant to this
24 section may impose a civil penalty authorized pursuant to
25 section 455C.12, subsection 6, for a violation of the order,
26 to be collected administratively by the department. The
27 person to whom the compliance order is issued may cause to be
28 commenced a contested case within the meaning of chapter 17A by
29 filing within thirty days a notice of appeal to the director.
30 Following a contested case hearing and a proposed decision
31 issued by the department, the commission may affirm, modify, or
32 vacate the proposed decision.

33 2. If a person continues an alleged violation during the
34 appeals process and the commission affirms that the person has
35 committed a violation, the department may assess penalties for

1 each day the violation continued through the appeals process.

2 Sec. 13. NEW SECTION. **455C.12B Judicial review.**

3 Judicial review of any final order or other final action of
4 the commission or director may be sought in accordance with the
5 terms of chapter 17A. Notwithstanding the terms of chapter
6 17A, petitions for judicial review may be filed in the district
7 court of the county in which the alleged offense was committed.

8 Sec. 14. NEW SECTION. **455C.12C Civil actions for compliance**
9 **— penalties.**

10 The attorney general, on request of the department, shall
11 institute any legal proceedings necessary to obtain compliance
12 with an order of the commission or the director, including
13 proceedings for a temporary injunction, or prosecuting any
14 person for a violation of the provisions of this chapter or
15 any rules adopted or permit or order issued pursuant to this
16 chapter.

17 Sec. 15. NEW SECTION. **455C.12D Bottle bill fund.**

18 A bottle bill fund is established in the state treasury
19 under the control of the department. The fund shall consist
20 of moneys deposited in the fund pursuant to section 455C.12,
21 subsection 6, and any other moneys appropriated to or deposited
22 in the fund. Moneys in the fund are appropriated to the
23 department for purposes of administering and enforcing this
24 chapter. Notwithstanding section 8.33, moneys in the fund
25 that remain unencumbered or unobligated at the close of a
26 fiscal year shall not revert but shall remain available for
27 expenditure for the purposes designated. Notwithstanding
28 section 12C.7, subsection 2, interest or earnings on moneys in
29 the fund shall be credited to the fund.

30 Sec. 16. Section 455C.13, Code 2021, is amended to read as
31 follows:

32 **455C.13 Distributors' agreements authorized.**

33 1. A distributor, dealer, or redemption center may enter
34 into a contract or agreement with any other distributor,
35 manufacturer, or person for the purpose of collecting or paying

1 the refund value on, or disposing of, beverage containers as
2 provided in [this chapter](#).

3 2. For purposes of this chapter, any contracts entered into
4 pursuant to this section for the collection or disposal of
5 empty beverage containers shall not be deemed to interfere with
6 the refund value pursuant to section 455C.2. A contract shall
7 not authorize a person to offer and pay a refund value of less
8 than five cents.

9 Sec. 17. REPEAL. Sections 455C.7, 455C.10, and 455C.14,
10 Code 2021, are repealed.

11 Sec. 18. LEGISLATIVE FISCAL COMMITTEE REVIEW.

12 1. The legislative fiscal committee established in
13 section 2.45 shall hold a meeting during the legislative
14 interim immediately preceding the 2025 regular legislative
15 session. During the meeting, the committee shall review the
16 enforcement of chapter 455C by the department of natural
17 resources, including the collection of civil penalties, the
18 report submitted by the attorney general pursuant to subsection
19 2, whether and how many redemption centers and participating
20 dealers registered with the department, and the adequacy of
21 the reimbursement amount under section 455C.2, subsection
22 2. The committee shall submit a report of its findings and
23 recommendations to the general assembly no later than January
24 31, 2025.

25 2. The attorney general shall submit a report to the
26 general assembly prior to the legislative fiscal committee's
27 meetings under subsection 1. The report shall detail any legal
28 proceedings arising under chapter 455C since the effective date
29 of this Act.

30 Sec. 19. EFFECTIVE DATE. This Act takes effect January 1,
31 2022.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 Under current law, a consumer may return an empty beverage

1 container upon which a refund value has been paid to a dealer
2 or a redemption center. When a distributor collects empty
3 beverage containers from a dealer, dealer agent, or redemption
4 center, the distributor reimburses the dealer, dealer agent, or
5 redemption center the refund value plus a 1-cent handling fee
6 for each empty beverage container. Current law also allows any
7 person to establish a redemption center that serves a dealer
8 if it is approved by the department of natural resources. Any
9 person can also establish an unapproved redemption center.

10 This bill increases the handling fee to 2 cents per beverage
11 container from the effective date of the bill through December
12 31, 2026. During that time, the bill requires a dealer to pay
13 one-half of 1 cent per beverage container to the distributor
14 for 60 percent of the beverage containers delivered to the
15 dealer as a contribution to the handling fee.

16 Under the bill, a dealer may choose to not accept beverage
17 containers if the dealer's place of business is in a county
18 with a population of more than 30,000 and within 10 miles of
19 a registered redemption center or if the dealer's place of
20 business is in a county with a population of 30,000 or fewer
21 and within 15 miles of a registered redemption center.

22 The bill amends the definition of "dealer agent" so that a
23 dealer agent is not limited to soliciting or picking up empty
24 beverage containers from a dealer.

25 The bill allows a person to establish a redemption center by
26 filing proper notice with the department. The bill provides
27 requirements that a person must satisfy to properly file notice
28 of operation of a redemption center. Upon filing proper
29 notice, the redemption center shall be considered a registered
30 redemption center for purposes of the bill. Additionally, a
31 participating dealer may register with the department to act as
32 a registered redemption center for purposes of the bill.

33 The bill creates civil enforcement procedures and penalties
34 for a violation of the provisions of the bill, including a
35 civil penalty of up to \$2,500 for each day of the violation.

1 The bill establishes a bottle bill fund in the state treasury
2 under the control of the department. The fund shall consist
3 of moneys deposited in the fund from civil penalties collected
4 under the bill and such moneys are appropriated to the
5 department for purposes of administering and enforcing the
6 beverage containers control program.

7 The bill requires the legislative fiscal committee to hold a
8 meeting during the legislative interim immediately preceding
9 the 2025 regular legislative session. Prior to the meeting,
10 the attorney general shall submit to the general assembly
11 for the committee's review a report that details any legal
12 proceedings arising under the beverage containers control
13 program since the effective date of the bill. The committee
14 shall review the enforcement of the beverage containers
15 control program, the attorney general's report, whether and how
16 many redemption centers and participating dealers registered
17 with the department, and the adequacy of the handling fee.
18 The committee shall submit a report of its findings and
19 recommendations to the general assembly no later than January
20 31, 2025.

21 The bill makes numerous changes throughout Code chapter 455C
22 to change instances of "dealer" to "participating dealer",
23 remove obsolete language, and stylistically and grammatically
24 update the Code chapter.

25 The bill takes effect January 1, 2022.